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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 LAQUESHA TURNER,

9 Plaintiff,

10 v.

11 RED ROBIN INTERNATIONAL, INC.,

12 Defendants.
13

Case No. C17-0322RSL

ORDER GRANTING LEAVE TO
AMEND AND REMANDING ACTION

14 This matter comes before the Court on “Plaintiff’s Motion for Leave to Amend Complaint
15 and Motion to Remand.” Dkt. # 9. “Once removal has occurred, the district court has two
16 options in dealing with an attempt to join a non-diverse party. 28 U.S.C. § 1447(e) provides that
17 ‘if after removal the plaintiff seeks to join additional defendants whose joinder would destroy
18 subject matter jurisdiction, the court may deny joinder, or permit joinder and remand the action
19 to the State court.’” Morris v. Princess Cruises, Inc., 236 F.3d 1061, 1068 (9th Cir. 2001)
20 (internal alterations omitted). When determining whether to grant leave to amend in these
21 circumstances, courts in the Ninth Circuit consider a number of factors, including:

22 1. Whether the party sought to be joined is needed for just adjudication . . . ;¹
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24 ¹ This factor generally includes the phrase “and would be joined under Federal Rule of Civil
25 Procedure 19(a).” Joinder under § 1447(e) is less restrictive than joinder under Rule 19(a), however, and
26 the key issues are the significance of the relationship between the causes of action and the new
defendant and whether complete relief can be awarded in the absence of the new defendant. IBC
Aviation Servs., Inc. v. Campania Mexicana de Aviacion, S.A. de C.V., 125 F. Supp.2d 1008, 1011-12

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1 2. Whether the statute of limitations would preclude an original action against the
2 new defendants in state court;

3 3. Whether there has been unexplained delay in requesting joinder;

4 4. Whether joinder is intended solely to defeat federal jurisdiction;

5 5. Whether the claims against the new defendant appear valid; and

6 6. Whether denial of joinder will prejudice the plaintiff.

7 Milton v. Xerox Corp., 2016 WL 641130, at *2 (W.D. Wash. Feb. 18, 2016). Having considered
8 the factors and the relevant case law, the Court grants leave to amend. Defendant has asserted
9 defenses, only some of which have been withdrawn, which seek to avoid liability on the ground
10 that the newly-named defendants are at fault. Allowing plaintiff to pursue her claims against all
11 three potentially-liable parties in a single litigation will improve efficiency and avoid the risk of
12 inconsistent verdicts. The proposed amendment is not fraudulent, it is an appropriate response to
13 defendant's litigation position, and it was timely sought. While plaintiff clearly prefers to litigate
14 this action in state court (if for no other reason than that she may be able to reclaim a right to a
15 jury trial that has been waived in this forum), that preference should not be construed negatively
16 any more than is defendant's preference for federal court. Taylor v. Honeywell Corp., 2010 WL
17 1881459, at *3 (N.D. Cal. May 10, 2010).


18 Defendant argues that, if leave to amend is granted, the Court should hang onto the case
19 for ninety days to see if plaintiff asserts a federal cause of action. Granting leave to amend will
20 destroy diversity and deprive the Court of jurisdiction. As discussed above, the appropriate
21 course of action in that situation is remand. Defendant offers no authority for the proposition that
22 the Court should ignore governing law and retain jurisdiction when jurisdiction no longer exists.
23 The Court declines the invitation.

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26 (N. D. Cal. 2000).

1 For all of the foregoing reasons, plaintiff's motion to amend is GRANTED and this case
2 is hereby remanded to state court for lack of subject matter jurisdiction. If, as defendant fears,
3 plaintiff again amends her complaint to assert a federal cause of action, a second removal may be
4 appropriate. The Clerk of the Court is directed to transmit this matter back to King County
5 Superior Court.

6 Dated this 5th day of May, 2017.

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8 
9 Robert S. Lasnik
United States District Judge